

AMENDED IN ASSEMBLY MAY 19, 2003

AMENDED IN ASSEMBLY APRIL 1, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1398

Introduced by Assembly Member Vargas

February 21, 2003

An act to amend Section 25664 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1398, as amended, Vargas. Alcoholic beverages.

The Alcoholic Beverage Control Act contains various provisions regulating the application for, the issuance of, the suspension of, and the conditions imposed upon, alcoholic beverage licenses by the Department of Alcoholic Beverage Control. That act also prohibits, subject to a criminal penalty, the use of alcoholic beverages in any advertisement that encourages minors to drink the alcoholic beverages.

This bill would create the presumption that any ~~billboards, signage,~~ *signage* or flyers that advertise establishments that serve alcoholic beverages to individuals under the age of 21 years are prohibited, if one of the establishment's principal business activities is the selling of alcoholic beverages *and the advertisement expressly states that the jurisdiction in which the establishment is located has a legal drinking age of under 21 years, or that individuals under the age of 21 years may patronize the establishment.*

This bill would impose a state-mandated local program by changing the definition of a crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the
2 following:

3 (a) According to the Center on Alcohol Marketing and Youth,
4 alcohol abuse is the leading drug problem among adolescents.

5 (b) Leadership to Keep Children Alcohol Free maintains that
6 nearly half of the high school population in the United States have
7 been drunk at least one time, and that almost one-third of high
8 school seniors have admitted to binge drinking.

9 (c) Alcohol is often a factor in motor vehicle accidents,
10 homicides, and suicides, which are the three leading causes of
11 death among youth between the ages of 10 and 24 years.

12 (d) California's close proximity to Mexico presents a challenge
13 in preventing underage drinking because Mexico's legal drinking
14 age differs from that in California.

15 (e) Establishments located in Mexico have targeted the youth
16 population in the United States, through the use of marketing
17 techniques, to encourage patronage at their bars and nightclubs.

18 (f) Unfortunately, many times these marketing techniques are
19 successful; federally funded studies have confirmed that young
20 people exposed to alcohol-related advertising are more likely to
21 consume alcohol.

22 (g) Because the consumption of alcohol among those under the
23 age of 21 years has reached epidemic proportions, California has
24 a substantial interest in engaging in efforts to reduce underage
25 drinking.

26 SEC. 2. It is the intent of the Legislature, in enacting this act,
27 to prohibit, in California, advertising promoting the consumption
28 of alcohol outside the United States *that is aimed at individuals*
29 *under the age of 21 years* by establishments that sell alcoholic



1 beverages as one of an establishment's principal business
2 activities.

3 SEC. 3. Section 25664 of the Business and Professions Code
4 is amended to read:

5 25664. (a) (1) The use of alcoholic beverages in any
6 advertisement of any subject matter, language, or slogan addressed
7 to and intended to encourage minors to drink the alcoholic
8 beverages is prohibited.

9 (2) ~~Billboards, signage,~~ *Signage* or flyers advertising
10 ~~establishments~~ *an establishment* that ~~serve~~ *serves* alcoholic
11 beverages to individuals under the age of 21 years are presumed
12 to be prohibited under paragraph (1) if one of the establishment's
13 principal business activities is the selling of alcoholic beverages,
14 *and the advertisement expressly states that the jurisdiction in*
15 *which the establishment is located has a legal drinking age of*
16 *under 21 years or that individuals under the age of 21 years may*
17 *patronize the establishment.*

18 (3) Nothing in this section shall be deemed to restrict or
19 prohibit any advertisement of alcoholic beverages to those persons
20 of legal drinking age.

21 (b) The department may adopt rules as it determines to be
22 necessary for the administration of this section.

23 SEC. 4. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.